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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 GABRIEL ALLEN ECKARD,

10 Plaintiff,

11 v.

12 DANIEL STITES,

13 Defendant.

CASE NO. C19-738 RSM

ORDER

14 This matter is before the Court on United States Magistrate Michelle L. Peterson's Report
15 and Recommendation ("R&R"). Dkt. #24. That R&R recommends that the Court deny
16 Plaintiff's motion for summary judgment (Dkt. #14), grant Defendant's motion for summary
17 judgment (Dkt. #16), deny, as moot, Defendant's amended motion for judgment on the pleadings
18 (Dkt. #13), and deny Plaintiff's motion for Rule 56(f) denial of motion for summary judgment,
19 or in the alternative, motion for a continuance (Dkt. #22). Plaintiff has filed objections to the
20 R&R and Defendant has responded. Dkts. #24 and #25. Following the Court's de novo review,
21 the Court adopts the R&R.

22 Plaintiff initiated this action while held as a pretrial detainee at a county jail. Dkt. #5.
23 Plaintiff alleges that he was confined to a restraint chair in the observation unit of the jail because
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1 he continued to press the emergency call button in his cell when no emergency existed.¹ Dkt. #5
2 at ¶ 6. Plaintiff complains that he continued to be housed in the observation unit even after he
3 agreed not to abuse the emergency call button in his cell and was released from the restraint chair.
4 Plaintiff complains that his actions were significantly more constrained in the observation unit,
5 that his cell lacked many customary amenities, and that this change in housing status, without an
6 opportunity to respond, was unconstitutional punishment.

7 Plaintiff's objections do not raise any new arguments that were not presented before
8 Judge Peterson. Plaintiff seeks, merely, to rehash prior arguments that were already rejected by
9 Judge Peterson.² The Court has reviewed the record herein de novo and finds the R&R fully in
10 accord with the factual record and applicable law.

11 Accordingly, and having reviewed the Report and Recommendation of United States
12 Magistrate Judge Michelle L. Peterson, the underlying motions and supporting documents,
13 Plaintiff's objections to the R&R and Defendant's responses, and the remaining record, the Court
14 FINDS and ORDERS:

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16 ¹ Plaintiff's complaint does not relate to the events leading to the jail staff's use of the restraint
17 chair. Those events are the subject of another of the Plaintiff's actions before this Court. *Eckard*
v. Thomas, Case No. C19-104RSM (W.D. Wash.).

18 ² First, Plaintiff asserts that he has a "right" to certain amenities within a cell based on the case
19 of *Wright v. Rushen*. Dkt. #25 at 2–3. Plaintiff is correct that the district court in *Wright* issued
20 a preliminary injunction requiring certain prisons to provide "a bed and a clean, untorn mattress,
21 two clean blankets, a properly functioning toilet, a properly functioning sink with running water,
a surface which the occupant can use for writing while in an uncramped seating position, shelf
space, and adequate lighting." *Wright v. Rushen*, 642 F.2d 1129, 1135 (9th Cir. 1981). Plaintiff
does not note that the Ninth Circuit in fact vacated that preliminary injunction. Accordingly, his
position lacks legal support.

22 Second, Plaintiff complains that he should have been afforded an additional opportunity to
23 conduct discovery. But the R&R fully considered this issue. Dkt. #24 at 2–3. Most importantly,
24 Judge Peterson noted that the discovery deadline had already passed, and that Plaintiff provided
no justification for his failure to seek discovery in a timely manner. *Id.* The Court finds it
appropriate to deny Plaintiff's request, as recommended by the R&R.

1. The Report and Recommendation (Dkt. #24) is ADOPTED.
2. Plaintiff's Motion for Summary Judgment (Dkt. #14) is DENIED.
3. Defendant's Response to Plaintiff's Motion for Summary Judgment and Cross-Motion
for Summary Judgment (Dkt. #16) is GRANTED.
4. Defendant's FRCP 12(c) Motion for Judgment on the Pleadings (Dkt. #13) is DENIED
as moot.
5. Plaintiff's Motion for Rule 56(f) Denial of Defendant's Motion for Summary Judgment
or Continuance (Dkt. #22) is DENIED.
6. This matter is CLOSED.
7. The Clerk is directed to send copies of this Order to the parties and to Judge Peterson.

Dated this 9 day of March, 2020.



RICARDO S. MARTINEZ
CHIEF UNITED STATES DISTRICT JUDGE